

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6

vs.

Case No. 1:24-cr-7

7 RICHARD ANTHONY REYNA DENSMORE,

8 Defendant.

9 SENTENCING HEARING

BEFORE THE HONORABLE HALA JARBOU
United States District Judge

Lansing, Michigan, Thursday, November 7, 2024

14 APPEARANCES:

15 For the Plaintiff: ADAM B. TOWNSHEND
U.S. Attorney
330 Ionia Ave., NW
16 Grand Rapids, MI 49501-0208
(616) 456-2404

18 For the Defendant: CHRISTOPHER M. GIBBONS
Gibbons & Boer
2404 Eastern Ave., SE
19 Grand Rapids, MI 49507
(616) 460-1587

21 REPORTED BY: TRISHA N. CAMERON, CSR, RMR, CRR, RDR
Federal Official Court Reporter
128 Federal Building
22 Lansing, Michigan 48933

1 Lansing, Michigan

2 November 7, 2024

3 10:07 a.m.

4 *PROCEEDINGS*

5 THE CLERK: All rise. The United States District
6 Court for the Western District of Michigan is now in session.

7 The Honorable Hala Jarbou, Chief District Judge, presiding.

8 Thank you. You may be seated.

9 Now calling the United States versus Richard
10 Densmore, Case No. 1:24-cr-7.

11 THE COURT: All right. Good morning. Can I have
12 appearances, please.

13 MR. TOWNSHEND: Good morning, Your Honor. Adam
14 Townshend on behalf of the United States. With me at counsel
15 table is Special Agent Justin Hall from the FBI.

16 THE COURT: Good morning, both of you.

17 MR. GIBBONS: Good morning, Your Honor. Christopher
18 Gibbons on behalf of the defendant Richard Densmore, who is
19 seated to my right.

20 THE COURT: All right. Good morning, Mr. Gibbons.
21 And good morning, Mr. Densmore.

22 THE DEFENDANT: Hi.

23 THE COURT: Mr. Densmore, can you hear me?

24 THE DEFENDANT: Yes. Hello.

25 THE COURT: All right. Thank you. This is the date

1 and time set for sentencing. I have reviewed the Presentence
2 Investigation Report, the defendant's motion for a variance,
3 defendant's memorandum in support for the motion for the
4 variance and sentencing, the government's sentencing
5 memorandum in opposition to the downward variance, and the
6 government's supplemental statement regarding restitution and
7 financial assessment. So there are a few things that we need
8 to address.

9 But this was a plea back in July, July 18th of 2024,
10 to Count 1, sexual exploitation of a child, pursuant to a plea
11 agreement, I believe.

12 Is that correct, Mr. Townshend,
13 Mr. Gibbons?

14 MR. TOWNSHEND: That's correct, Your Honor.

15 THE COURT: Okay. And I will accept that plea
16 agreement at this time.

17 All right. There is one objection that we need to
18 resolve, and there's also -- I just want to clear up the
19 restitution and assessment issue, as well.

20 So let's start with the objection. Mr. Gibbons, you
21 have an objection to the five-level enhancement pursuant to
22 4B1.5(b) (1), correct?

23 MR. GIBBONS: That is correct, Your Honor.

24 THE COURT: Okay. Is there -- well, tell me if
25 there's anything else you want to say as it relates to that.

1 MR. GIBBONS: No. I think it's all adequately
2 explained in the sentencing memorandum, Your Honor.

3 THE COURT: Okay. So your position basically is that
4 he doesn't have a scorable criminal history but -- so there
5 are no prior convictions. I mean, he has, I believe, a
6 CSC 4th degree, but that was successfully completed under HYTA
7 when he was about 20 years old. But there's no prior
8 convictions, and, therefore, 4B1.5(b) (1) does not apply.

9 MR. GIBBONS: That is my thought, Your Honor. That,
10 and given the fact that the pattern of facts that would
11 support the enhancement all arise out of the conduct for which
12 he is answering here today, which could mitigate the
13 application.

14 As I conceded in my memorandum, I do think that there
15 are adequate grounds to apply the enhancement, but given the
16 severity, five levels is a lot of time. I just want to make
17 sure my client's rights are preserved and protected in the
18 event something should happen with the higher courts that
19 could open clearer avenues of relief for my client.

20 THE COURT: Okay. Mr. Townshend, anything you want
21 to say in response to that?

22 MR. TOWNSHEND: Yes, Your Honor. So just so I'm
23 clear and the record's clear, there are two different bases
24 for this enhancement under Section 4B1.5.

25 You have 4B1.5(a), which relates to a prior

1 conviction. That is not what we're proceeding under.

2 4B1.5(b) concerns the enhancement with respect to a
3 pattern of prohibited sexual conduct. That is what the
4 probation office is recommending the enhancement under, and
5 that is what applies here.

6 Just to summarize the government's position, the
7 defendant's conviction is a covered sex crime, as it's defined
8 in that guideline. Sections 4B1.1 and 4B1.5(a) of the
9 guidelines do not apply here.

10 And as the government explained in its sentencing
11 memorandum, Mr. Densmore did engage in a pattern of activity
12 involving prohibited sexual conduct. As we briefed, that
13 includes -- the pattern of conduct is two separate occasions
14 that includes the offense of conviction. Here there were two
15 other occasions of prohibited sexual conduct.

16 One is covered in the PSR, and that's the production
17 of child pornography regarding another victim who we've
18 identified as Jane Doe 2. That's paragraphs 13 and 14 of the
19 PSR. Mr. Densmore solicited and received sexual --
20 sexually-explicit material from that minor.

21 Also, as we briefed and we demonstrated through the
22 exhibits that this Court has, which we included in our
23 exhibits, Mr. Densmore also advertised child pornography and
24 sexually-explicit conduct by minors in other Discord chat
25 rooms. That's a violation of 18 USC 2020 -- excuse me.

1 2251(d), also another occasion of prohibited sexual conduct
2 under the guideline.

3 So the government's position is that all three
4 elements of that enhancement are met here, and the Court
5 should apply that five-level enhancement.

6 THE COURT: All right. In looking at 4B1.5(b) (1), as
7 indicated, it applies where the offense is a covered sex crime
8 and that Defendant engaged in a pattern of activity involving
9 prohibited sexual conduct. I think all those instances that
10 the government just outlined certainly qualifies as a pattern,
11 and the charge in and of itself qualifies under 4B1.5(b) (1).

12 I will note in terms of the arguments, as it relates
13 to multiple acts with a singular victim, there's Sixth Circuit
14 case law on point as to that, first, and also, that it doesn't
15 have to be a conviction.

16 So United States versus Hollon, H-o-l-l-o-n,
17 948 F.3d 753 at 758 through 759, a 2020 Sixth Circuit case,
18 indicates 4B1.5(b) (1) applies even when an individual has no
19 related criminal convictions. 4B1.5(b) (1) also applies when
20 the defendant engaged in multiple prohibited sexual acts
21 towards a singular victim.

22 United states versus Paauwe, P-a-a-u-w-e,
23 968 F.3d 614 at 618, a 2020 Sixth Circuit case. That case
24 indicating that 4B1.5 takes aim at multiplicity in acts, not
25 multiplicity in victims.

1 United States versus Brown, 634 Federal Appendix 477
2 at 482, 2015 Sixth Circuit case. That case indicates that,
3 quote, the current version of 4B1.5 applies when the defendant
4 has engaged in at least two separate occasions of prohibited
5 conduct with a minor, even if those separate occasions are
6 with the same victim.

11 So I think the case law is pretty clear. And I
12 understand, Mr. Gibbons, your purpose in bringing that up, but
13 the objection is overruled.

14 All right. Mr. Townshend, you filed something as it
15 relates to restitution and financial assessment. So let's
16 clear up what it is that he's charged with, what's applicable
17 in terms of restitution and/or these assessments.

18 MR. TOWNSHEND: Thank you, Your Honor. I appreciate
19 your consideration of the late filing. I caught that in
20 preparation for sentencing today.

21 I should be clear, I think -- I think the only change
22 here is to restitution. The PSR, again, classifies the
23 offense of conviction here sexual exploitation under
24 Section 2020 -- 2251(a) as a trafficking offense. If that's
25 true, the mandatory restitution provision at

1 18 USC 2259 requires a minimum of \$3,000 in restitution.

2 That's 18 USC 2020 -- 2259(b) (2) (B) .

3 I think it's clear from the statutory text that the
4 offense of conviction, 2020 -- excuse me. I keep falling over
5 that. 2251(a) is not a trafficking offense. It's a child
6 pornography production offense, meaning restitution under --
7 mandatory restitution under 18 USC 2259 is limited to the full
8 amount of the victim's losses, not that -- not that floor of
9 \$3,000 that the PSR recommends. I think that's really the
10 most meaningful change here.

11 And, again, as we indicated in our filing, we haven't
12 received any victim impact statements or responses to our
13 outreach to victims. So I wanted to make sure that the Court
14 was clear that from the government's point of view, it does
15 not apply the mandatory \$3,000 floor in restitution, but
16 instead refers to the full amount of victim losses in making
17 that determination.

18 THE COURT: Right. And as you've indicated and what
19 I've read, there has not been any submission by any victim as
20 to any loss, correct?

21 MR. TOWNSHEND: That's correct, Your Honor. And as
22 we also briefed in terms of -- again, this doesn't affect the
23 applicability of any other assessments in this case. But as a
24 child pornography production offense, there is that fine of up
25 to \$50,000. That is referenced in the PSR. But as a child

1 pornography production offense, that's that fine range with
2 respect to that conduct.

3 THE COURT: All right. So that only really affects
4 just the \$3,000, not the JVTA or any of the other assessments,
5 correct?

6 MR. TOWNSHEND: That's correct, Your Honor.

7 THE COURT: All right. Mr. Gibbons, any response or
8 any issue with that?

9 MR. GIBBONS: I have nothing meaningful to add, Your
10 Honor. I'm in agreement.

11 THE COURT: All right. Thank you.

12 MR. TOWNSHEND: Your Honor, may I address one other
13 thing?

14 THE COURT: Sure.

15 MR. TOWNSHEND: I think one other preliminary issue
16 is, as the Court is well aware, the 2024 version of the
17 guidelines took effect a few days ago on November 1st. The
18 government has reviewed the 2023 guidelines under which the
19 PSR was prepared and compared that to the 2024 guidelines
20 manual. As I see it, Your Honor, there's no difference in the
21 calculation of the guidelines there. I think the only
22 difference between the guidelines as applicable to this case
23 is the definition of a sex offense under the 0 point offender
24 adjustment, and that's Section 4C1.1.

25 Under either the 2023 version of the guidelines or

1 the 2024 version of the guidelines, Mr. Densmore is not
2 eligible for a 0 point offender adjustment because this is a
3 sex offense and it was perpetrated against a minor.

4 And so, again, I don't think there's any difference
5 in the application of that guideline as between the two
6 versions, but I wanted to make the Court aware of that.

7 THE COURT: Thank you. It's always good to make a
8 clear record of that.

9 Mr. Gibbons, any input as to that issue?

10 MR. GIBBONS: Satisfied, Your Honor.

11 THE COURT: Okay. All right. Thank you.

12 All right. Well, in terms of the guidelines -- but
13 before we get to that, Mr. Gibbons, have you had an
14 opportunity to discuss and share with him and read through the
15 Presentence Investigation Report with Mr. Densmore?

16 MR. GIBBONS: Yes, Your Honor. I've had the
17 opportunity to review both the Initial Presentence Report with
18 Mr. Densmore, as well as the final report prior to sentencing
19 today.

20 THE COURT: All right. Thank you.

21 Mr. Densmore, have you had an opportunity to read
22 through the whole Presentence Investigation Report and to
23 discuss that with Mr. Gibbons?

24 THE DEFENDANT: Yes.

25 THE COURT: Could you hear and understand him during

1 those discussions?

2 THE DEFENDANT: Yes.

3 THE COURT: If you had any questions, did he answer
4 those questions to your satisfaction?

5 THE DEFENDANT: He answered everything.

6 THE COURT: Okay. And are you overall satisfied with
7 his advice and his representation?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. The defendant was scored
10 initially at a base offense level of 32. Two levels were
11 added since the offense involved the commission of a sexual
12 act. Another two levels because the defendant knowingly
13 engaged in distribution. Another two levels pursuant to
14 2G2.1(b) (6) as it relates to producing sexually-explicit
15 material for the purposes of transmitting that material live
16 and the involvement of a computer or other interactive
17 computer service. There was a Chapter 4 enhancement. Before
18 that Chapter 4 enhancement, there was an adjusted offense
19 level of 38. The Chapter 4 enhancement, which dealt with the
20 objection that we just dealt with that I overruled, increased
21 that to a level 43. There were three levels deducted for
22 acceptance of responsibility.

23 I assume you're still making that motion.

24 MR. TOWNSHEND: Yes. We'll move for that third
25 point, Your Honor.

1 THE COURT: All right. The Court will grant that.
2
3 That yields a total offense level of 40. With a
4 criminal history score of 0 and a criminal history category
5 of I, the guideline range is 292 to 365 months. The statutory
6 maximum is 360 months. So the guidelines will be reduced to
7 292 to 360 months.

7 Is everyone in agreement with that guideline
8 determination? Obviously subject to the objection that you
9 have preserved.

10 MR. TOWNSHEND: The government agrees, Your Honor.

11 MR. GIBBONS: Yes, Your Honor. That is correct.

12 THE COURT: All right. Thank you.

13 Mr. Townshend, from what you just told me in terms of
14 victim submissions, are there any victims that are here today,
15 or have you received any victim impact statements?

16 MR. TOWNSHEND: There are no victims here today,
17 Your Honor. We have not received any victim impact statements
18 in response to our outreach.

19 THE COURT: All right. Thank you.

20 Mr. Gibbons, I'm going to start with you because
21 there's also a motion for a variance, and I think most of that
22 basis is a 3553(a) argument. But I'll let you make that and
23 have the government respond.

24 MR. GIBBONS: Thank you, Your Honor. I know that the
25 Court has had an opportunity to review the sentencing

1 memorandum that I've submitted on behalf of Mr. Densmore. I
2 don't have much more to add other than what's in that
3 memorandum, but I would like to highlight just a couple things
4 from the memorandum, things that I think are significant on
5 behalf of my client as he stands here today accounting for his
6 behavior.

7 He has for the majority of his life lived a law
8 abiding lifestyle. He is honorably discharged from the
9 military. He has the ability to conform and to follow the
10 rules and to not break the law.

11 He understands that he has offended in a way here
12 that's going to result in a significant prison sentence and
13 that the outcome today is likely to be severe. He has not
14 resisted the outcome. He understands that he has done things
15 that people really ought not do, and he understands that there
16 is a significant penalty for the types of things that he has
17 done.

18 He is asking the Court to consider the fact that he
19 does have family support. At some point, he will be released
20 from prison, if he lives long enough. He is in his mid 40s.
21 The guidelines are suggesting sentences that will have him
22 returning to his community before he reaches the age of 70.
23 He is hoping when he gets out that his family, they promise to
24 be there for him.

25 They understand -- one of the letters I think was

1 striking, that they had a family meeting about what to do with
2 regard to Mr. Densmore and his behavior, and they elected to
3 write a letter of support for him out of their love for him as
4 a family member and understanding and having seen some of the
5 things about his life that are separate from his conduct in
6 this case, where he has been for the most part a quiet person
7 living out a life pretty much in Bear Lake, Michigan, being a
8 helpful person to people that he engages with. Although, the
9 conduct in this case is deplorable. There's just no other way
10 around it.

11 So I would ask the Court to consider those things in
12 fashioning a sentence here that is sufficient but not greater
13 than necessary to meet the ends of sentencing.

14 In addition, I would ask the Court to recommend that
15 he be placed with the Bureau of Prisons at a place -- there
16 are facilities that handle and provide safe places for sex
17 offenders while they're incarcerated. I would ask that he be
18 placed at such a facility. And when he is at that facility,
19 my client is desirous of mental health treatment. Obviously
20 he has some issues that he needs to deal with, and he is
21 asking the Court to recommend that the BOP provide him with a
22 mental health assessment and subsequent treatment, if
23 necessary.

24 I have nothing further, Your Honor.

25 THE COURT: Thank you, Mr. Gibbons.

3 MR. TOWNSHEND: Your Honor, if I understand the
4 argument correctly, the motion for a downward variance is
5 primarily based on Mr. Densmore's personal characteristics.

6 The government will discuss in its allocution and
7 briefed extensively in its sentencing memorandum the other
8 3553(a) factors, the nature and seriousness of the offense,
9 the need for specific and general deterrence in these cases.

10 I'd highlight also the need for just punishment for
11 what Mr. Gibbons correctly described as deplorable conduct.

12 Again, we've briefed that. I will address that in a summary
13 fashion in my allocution.

14 But with respect to Mr. Densmore's personal
15 characteristics, I just want to highlight for the Court that
16 while the government agrees he was honorably discharged from
17 the military and certainly is not in a position to question
18 family support at this time, the government does disagree
19 about his ability to conform his conduct and his knowledge
20 that what he did was wrong.

21 I think the record is clear in terms of his ability
22 to conform his conduct, the PSR makes mention of this as well,
23 that in the chats that the government entered into the record
24 as part of its exhibits, Mr. Densmore was involved in trying
25 to ferret out and kick out people that were suspected law

1 enforcement from these Discord chats. And as the PSR recites,
2 every time one of his Sewer servers was shut down because of
3 the illegal activity, he created another one. I don't think
4 the record supports that he has the ability to conform his
5 conduct because he didn't for quite a while.

6 Also, in terms of his knowledge that what he did was
7 wrong, again, I know I'm harping on this, and I did in my
8 sentencing memo as well, Mr. Densmore claimed that his victim
9 for Count 1 was not affected. And so, as you'll hear me say
10 in my allocution, I'm not sure that he understands right from
11 wrong. I'm not sure he understands the significance of this
12 conduct and the real world consequences.

13 So the government just can't agree that his history
14 and his characteristics, particularly the characteristics he
15 showed during the offense conduct, warrant a downward
16 variance. Thank you.

17 THE COURT: Thank you. Any other -- I guess, if
18 there's any other allocution, Mr. Gibbons, I mean, separate
19 and apart.

20 MR. GIBBONS: Yeah. Your Honor, I did pretty much
21 combine my allocution in support of the motion for variance.
22 So I have nothing further to say.

23 THE COURT: Mr. Townshend, same for you? Any --

24 MR. TOWNSHEND: I do have some allocution, Your
25 Honor.

1 THE COURT: Thank you. Absolutely. Sometimes it's
2 kind of a mixed statement, but go ahead.

3 MR. TOWNSHEND: You know, Your Honor, and, again, the
4 point here is not to be preaching, but this was one of the
5 most vicious offenses I've ever had to be involved in in my
6 time with the government.

7 Your Honor, I was at an event over the weekend where
8 the charge to people was, to kind of paraphrase John Wesley,
9 you know, doing all the good you can, in all the ways you can,
10 in all the places you can, to all the people you can.

11 And it struck me that Mr. Densmore followed a
12 grotesque perversion of that mandate, not doing good but doing
13 harm.

14 He's convicted of crimes against children, the
15 substantial penalties for which, I think, reflect correctly
16 that these are some of the most heinous acts someone can
17 commit.

18 This doesn't take place in the virtual world of
19 Discord or Telegram. This is the real world. This affects
20 real children and has very real lasting and, I think,
21 far-reaching consequences.

22 We've talked a lot in our sentencing memorandum about
23 the 764 connection, and I will address that.

24 But I don't want the Court to lose sight of the
25 conduct underlying the other counts. And the government will,

1 of course, dismiss those counts as part of its plea agreement.

2 But remember the kind of child pornography that
3 Mr. Densmore kept. The PSR talks about a picture of a
4 three-year-old with her hands and feet tied to a bed and a
5 ball gag in her mouth with, lick me, please, written on her
6 stomach. A video of a five-year-old being penetrated by an
7 adult male who is biting a stuffed animal and wincing in pain.
8 I don't want the Court to lose sight of the heinous nature of
9 the child pornography that Mr. Densmore kept.

10 It's also important, I think, to recognize, as
11 paragraph 22 of the PSR states, that he instructed his victim
12 in Count 1, Jane Doe, to go out and find other girls to
13 victimize, other girls to do cut shows, other girls to do cam
14 shows, and if she couldn't find other people, to do it
15 herself. That's the nature of the conduct here, and that's
16 even before, Your Honor, we get to the 764 connection.

17 And I think it's important to recognize this wasn't
18 just child exploitation to satisfy a sexual perversion, but
19 also conduct in service of a broader nihilistic ethos.

20 764 is part of Mr. Densmore's motive and his
21 identity. And the fact that he had someone carve 764 Rabid
22 into themselves and saved a picture of that bloody wound to
23 keep as a trophy tells you all you need to know about his
24 commitment to that -- to that group.

25 This is a group and it's part of a larger network of

1 groups that grow through people like Mr. Densmore, and the
2 goal is to exploit and desensitize youth child by child. And
3 I think it's important in this case that the Court's sentence
4 reflect that one way we need to address this threat is through
5 punishment member by member.

6 And finally, Your Honor, as I indicated with my
7 response to the motion for a downward variance, Mr. Densmore
8 claimed all of this was just bored trolling and that victims
9 weren't affected. And as I said, I'm deeply concerned that he
10 doesn't understand right from wrong, that he doesn't
11 appreciate the consequences of his actions, and he's used the
12 global reach of the internet to remain a dangerous and ongoing
13 threat to children.

14 And, Your Honor, you know, I've asked myself a lot
15 during this case what to do when seeing is not believing. The
16 things I've seen and the things I think we've -- the
17 selections we've provided to the Court, what do you do when
18 you cannot believe, cannot admit to yourself that this kind of
19 heinous conduct takes place in the world? And I think the
20 answer, at least professionally, is to take action. And the
21 government did that by charging this case, and the government
22 would respectfully request that the Court also take action and
23 impose that 30-year maximum guideline sentence on
24 Mr. Densmore.

25 THE COURT: Thank you, Mr. Townshend.

1 Mr. Gibbons, I will give you an opportunity if you
2 want. But otherwise, I'll hear from the defendant.

3 MR. GIBBONS: Your Honor, I've said everything I need
4 to say here on the record and in my brief. And I will leave
5 the Court to Mr. Densmore.

6 THE COURT: All right. Thank you.

7 Mr. Densmore, anything you wish to say prior to
8 sentencing? You don't have to say anything, but if you want
9 to, this is your only opportunity. You can stay seated.

10 THE DEFENDANT: I rely on my lawyer, and I'm sorry.

11 THE COURT: Thank you. It's the Court's duty to
12 impose a sentence that is sufficient but not greater than
13 necessary to comply with the purposes of sentencing set forth
14 in 18 USC 3553(a).

15 To be quite honest, that language, sufficient but not
16 greater than necessary, we say it all the time, it seems like
17 we say it weekly, I don't know that those words can encompass
18 the behavior in this case. I don't know how you can -- how
19 you can determine what is sufficient but not greater than
20 necessary. But that's the purpose, and that's the -- that's
21 the mandate.

22 The guidelines are advisory to the Court. They are
23 advisory, not mandatory anymore. But they are an initial
24 benchmark, and they are a factor that the Court considers in
25 making an individualized assessment, and I'm certainly making

1 a very individualized assessment in this case, as I do in
2 every case.

3 The Court recognizes its discretion pursuant to
4 Supreme Court and Sixth Circuit precedent.

5 And I don't believe any of the arguments that
6 Mr. Gibbons has made are frivolous, and so I'm certainly
7 considering all those nonfrivolous arguments.

8 The motion for a variance is somewhat intertwined
9 with the 3553(a) factors that the Court has to look at, and
10 those factors include the nature and circumstances of the
11 offense and the history and characteristics of the defendant.

12 The nature and circumstances of the offense in this
13 case, like I said, I don't even know how you quantify a
14 sufficient but not greater than necessary sentence, as have
15 been described this morning as deplorable. I read somewhere
16 in everything that I've read as this conduct as being
17 depraved. I don't even know if those words truly describe the
18 behavior. So the seriousness of the offense, it can't be
19 overstated.

20 There is so much in terms of what the defendant did,
21 what he encouraged others to do, and what he sort of mandated
22 others to do that further exploited children. Not only did he
23 exploit, abuse children, he encouraged others to do it. He
24 encouraged children to cut themselves, to bleed, in addition
25 to the sexual exploitation. This involved multiple minor

1 victims, as has been indicated, some very young. And all for
2 his sexual gratification, and all for his also power that he
3 had over these minors and encouraging them to -- into this
4 activity that he -- that numerous people were watching and I'm
5 sure numerous people were recording.

6 Those images and those videos will never go away for
7 those victims. They are out there for other sexual deviants
8 to share and to trade, and the defendant had a huge role in
9 producing those and in distributing them and sharing them and
10 making that all available on these servers that he -- that he
11 created time and time again.

12 In addition to that, there is this other element of
13 this 764 extremist group that he is involved in. And
14 certainly their purposes are no where near honorable in terms
15 of what they want to do, and all of that is this type of
16 behavior that he was engaged in. I don't --

17 Mr. Townshend, I don't know that I agree with you
18 when you say he doesn't understand. I think he understands.

19 Mr. Densmore, I think you understand. I think you
20 don't care. And, quite frankly, that is even more dangerous
21 than you not being aware.

22 I was struck by the statements that are pretty
23 routine that I usually see. In this Presentence Investigation
24 Report, it's paragraph 31. Those questions and statements are
25 usually so routine that it almost normally takes me a second

1 to look at them because they're almost always the same in
2 terms of the probation department asking what is it that makes
3 you think you're guilty and what behavior and how has this
4 affected you or victims or others.

5 I was struck by and astounded by the defendant's
6 answers.

7 This is paragraph 31. Please describe what you did
8 that makes you guilty of this offense.

9 I told someone to tell their girlfriend to send a, a
10 nude picture two years ago.

11 That's not all you did. It wasn't a picture.

12 THE DEFENDANT: Three years ago.

13 THE COURT: I'm sorry?

14 THE DEFENDANT: It was three years ago.

15 THE COURT: Again, I don't care that it was two or
16 three years ago. It's -- I don't think it was one picture.
17 That's my point.

18 Why did you get involved?

19 I was bored and trolling.

20 How has your behavior in this case affected the
21 victim?

22 This is astounding to me.

23 We are friends and have been for two years. She is
24 not affected.

25 Yes. You indicate that your family is worried.

1 Apparently your friends are not affected.

2 How has your behavior in this case affected your
3 community?

4 Unaffected is your answer.

5 This is the type of behavior that affects any
6 community and specifically these victims in the most horrible
7 way. And I think, again, I don't think you don't understand.
8 I think you don't care.

9 How do you feel about your actions?

10 I'm doing everything I can to change my ways. I feel
11 bad about my actions.

12 To be quite honest, I don't think that's genuine.

13 What could you have done differently to avoid being
14 involved in this case?

15 I wasn't thinking about the consequences of my
16 actions.

17 What will you do to stay out of the criminal justice
18 system in the future?

19 Find better hobbies.

20 Again, that's astounding to me that this was
21 considered a hobby.

22 I don't see any remorse in there. I don't see any
23 real acknowledgement of the consequences of your actions. So,
24 again, I think you were fully aware of what you were doing and
25 understood it and you just didn't care and you wanted to

1 continue doing it and you would have continued doing it had
2 the government not stepped in. So the nature and
3 circumstances of the offense and the seriousness of the
4 offense are great.

5 In terms of your history and characteristics, from
6 what I can tell, you had a somewhat stable upbringing. Raised
7 by your mother and your grandmother in a mostly financially
8 secure environment. So there's nothing about your upbringing
9 that is unusual.

10 I do acknowledge a mental health history for a
11 borderline personality disorder diagnosis that came in the
12 late 1990s. There is some depression and anxiety history and
13 a history of self harm.

14 There's not much, if any, substance abuse history.

15 I do acknowledge that you completed high school and
16 that you served in the United States Army after high school
17 and served about six years and were honorably discharged, and
18 so I do acknowledge that service as well.

19 From your employment history, it looks like it was
20 mostly sporadic. I don't know how much, if any, employment
21 history you had. And it seems in the last -- in the last
22 however many years, it's been -- you've been supported by
23 unemployment benefits and government assistance. So I do look
24 at your history and characteristics.

25 I also look at the need for the sentence to impose --

1 or to promote respect for the law, to provide just punishment,
2 to afford adequate deterrence, and I think deterrence is one
3 of the more serious, as well as the seriousness of the
4 offense.

5 This group that you're involved in, whether it's you
6 and just one other person or a heck of a lot more people, I
7 hope this sentence rings loud and clear to anyone else that's
8 involved in this group that this will be your punishment if
9 this type of behavior continues. And certainly protecting the
10 public is intertwined with all of that, and the Court
11 considers that a factor that's very much warranted in this --
12 in this sentence.

13 In looking at fashioning a sentence that is
14 sufficient but not greater than necessary, in looking at all
15 the kinds of sentences available and in trying to avoid
16 sentencing disparities, and looking at your
17 educational/vocational needs or any other programming needs, I
18 do acknowledge that you certainly need and I will recommend
19 that you undergo a mental health evaluation and treatment as
20 the Bureau of Prisons deems. I think the Bureau of Prisons
21 does place individuals like Mr. Densmore in certain facilities
22 where they can get those services, but I'll make that
23 recommendation as well.

24 There is also the need to provide restitution, that
25 restitution that is allowable by law, as well, for the Court

1 to consider.

2 In looking at all of these factors and in looking at
3 the motion for a variance, I can't say what I have just said
4 and think that the motion for a variance can be granted. I
5 understand there's a significant five-level enhancement, and
6 it's appropriate, especially in a case like this. So I think
7 there's really -- that does not sway me in terms of providing
8 a variance, and I don't think the mental health history
9 overrides all the -- these other factors that the Court has to
10 consider. So the motion for a variance is denied.

11 And pursuant to the Sentencing Reform Act of 1984,
12 it's the judgment of the Court that the defendant Richard
13 Densmore is hereby committed to the custody of the Bureau of
14 Prisons to be imprisoned for a term of 360 months.

15 Upon release from prison, you'll be placed on
16 supervised release for a term of ten years.

17 Within 72 hours of release from the custody of the
18 Bureau of Prisons, you'll report in person to the probation
19 office in the district to which you are released. While on
20 supervised release, you'll comply with mandatory and standard
21 conditions of supervision, including DNA collection and drug
22 testing -- I'm sorry. Drug testing is suspended. You'll
23 comply with DNA collection and sex offender registration.
24 Additionally, you'll comply with the following special
25 conditions of supervision:

1 You must participate in a program of mental health
2 treatment, as directed by your probation officer, follow the
3 rules and regulations as directed by your probation officer,
4 and you must pay at least a portion of the cost according to
5 your ability, as determined by your probation officer.

6 You must participate in a sex offender assessment
7 and/or treatment, as approved by your probation officer, which
8 will include physiological testing, such as a polygraph,
9 and/or ABEL Assessments. You will contribute to the cost of
10 treatment in an amount approved by the probation officer and
11 waive your right to confidentiality while involved in the
12 treatment.

13 Your residence and employment must be pre-approved by
14 the probation officer.

15 You must not associate or have any contact with
16 convicted sex offenders, unless in a therapeutic setting and
17 with the permission of the probation officer.

18 You must not be employed in any position or
19 participate as a volunteer in any activity that involves
20 contact with children under the age of 18, except as approved
21 by the probation officer.

22 You must have no contact with minors under the age of
23 18 without the written approval of the probation officer and
24 must refrain from entering into any area where children
25 frequently congregate including but not limited to parks,

1 schools, daycare centers, theme parks, theaters, and
2 playgrounds.

3 You must not associate with persons under the age of
4 18, except in the presence of a responsible adult who is aware
5 of the nature of your background and criminal offenses, and
6 who has been approved in advance by the probation officer.

7 You must not date or socialize with anyone who has
8 children under the age of 18 without the permission of the
9 probation officer.

10 You must not have any contact with the victims in
11 this case. This includes any physical, visual, written,
12 electronic, or telephonic contact with any of these persons.
13 Additionally, you must not directly cause or encourage anyone
14 else to have such contact with any of the victims.

15 You must not possess or publicly display any
16 materials that may be viewed as lures for children, including
17 but not limited to children's games, toys, videos, or clothing
18 without prior approval of the probation officer.

19 You must not purchase or possess photographic or
20 video equipment without the prior knowledge and permission of
21 the probation officer.

22 You must not possess any materials depicting any
23 sexually-explicit conduct as defined by federal law and state
24 law including visual, auditory, telephonic, or electronic
25 media, and computer programs or services.

1 You must not patronize any place whose primary
2 purpose is to promote such materials or entertainment.

3 You must advise the probation officer of all
4 pornographic materials and sexual items or devices you own or
5 possess, and you must not own or possess any sexually
6 stimulating or sexually oriented materials, items, or devices
7 deemed inappropriate by the probation officer or by treatment
8 staff.

9 You must consent to third-party disclosure to any
10 employer or potential employer concerning any
11 computer-related restrictions or community risks related to
12 you.

13 You must use only those computers and/or
14 computer-related devices approved in advance by the probation
15 officer.

16 You must provide the probation officers with all
17 usernames, e-mail addresses, passwords, social media accounts,
18 and any other forms of internet identification, and you must
19 not create additional accounts, unless approved in advance by
20 the probation officer.

21 You must not have any other individual access the
22 internet on your behalf to obtain files or information which
23 you are restricted from accessing yourself or accepting files
24 or information from other persons. You must not have another
25 individual do that.

1 You must participate in the computer internet
2 computer monitoring and must comply with the rules of the
3 program as directed by your probation officer. You must pay
4 the cost of computer monitoring as directed by the officer and
5 advise anyone in your household that any computer or computers
6 in the household may be subject to computer searching.

7 You must submit your person, property, house,
8 residence, vehicle, papers, computers, or other electronic
9 communications or data storage devices or media or office to a
10 search conducted by a U.S. probation officer. Failure to
11 submit to a search may be grounds for revocation of release.

12 You must warn any other occupants that the premises may be
13 subject to searches pursuant to this condition. The probation
14 officer may conduct a search under this condition only when
15 reasonable suspicion exists that you've violated a condition
16 of supervision and that the areas to be searched contain
17 evidence of this violation. Any search must be conducted at a
18 reasonable time and in a reasonable manner.

19 It is further ordered that you'll pay the United
20 States a special assessment of \$100, which is due immediately.
21 It's ordered that you'll pay a \$5,000 special assessment under
22 the provisions of the Justice for Victims of Trafficking Act
23 of 2015, which shall be due immediately, unless the Court
24 determines that you're indigent, and I have not made that
25 determination.

4 Restitution is not going to be ordered as it's
5 outlined in the Presentence Investigation Report, as no
6 victims have submitted any loss determinations as it relates
7 to this specific count.

10 You'll start paying as it relates to these monetary
11 penalties in minimum quarterly installments of \$20 or \$25
12 during the time that you're incarcerated to commence 60 days
13 after the date of the judgment. Any balance due upon
14 commencement of supervision must be paid during the term of
15 supervision in minimum monthly installments of \$100 to
16 commence 60 days after you're released from prison.

17 Additionally, you must apply all monies received from
18 income tax refunds, lottery winnings, judgments, or any other
19 anticipated or unexpected financial gains to any outstanding
20 court-ordered financial obligations.

21 Mr. Townshend, you have counts that you are going to
22 dismiss?

23 MR. TOWNSHEND: Your Honor, at this time, the
24 government would dismiss Counts 2 through 5 of the
25 indictment.

1 THE COURT: All right. The Court will grant that
2 motion.

3 Pursuant to Bostic, are counsel satisfied that I've
4 addressed on the record all nonfrivolous arguments that have
5 been asserted?

6 MR. TOWNSHEND: Yes, Your Honor.

7 THE COURT: Mr. Gibbons?

8 MR. GIBBONS: Yes, Your Honor.

11 MR. TOWNSHEND: No, Your Honor.

12 MR. GIBBONS: No, Your Honor.

15 You can appeal your conviction if you believe that
16 your guilty plea was somehow unlawful or involuntary or if
17 there's some other fundamental defect in the proceeding not
18 waived by your guilty plea. You also have a statutory right
19 to appeal your sentence under certain circumstances,
20 particularly if you think the sentence is contrary to law.

21 You have the right to apply for leave to appeal in
22 forma pauperis. If you wish to do so, with a few exceptions,
23 you'll need to file appropriate documents within 14 days of
24 the entry of judgment, and your attorney will prepare and file
25 a Notice of Appeal upon your request.

1 Mr. Densmore, do you acknowledge that I've advised
2 you of your appellate rights?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. And, Mr. Gibbons, you
5 understand your obligation to speak with him as it relates to
6 those appellate rights, and if he wishes to pursue that, to
7 file the appropriate paperwork with the Sixth Circuit?

8 MR. GIBBONS: I have, and I do.

9 THE COURT: All right. Thank you. Anything else
10 from anyone?

11 MR. GIBBONS: Your Honor, if I could, just for
12 clarification. I just want to make sure the Court is
13 recommending that Mr. Densmore be placed in a sexual offender
14 type housing situation.

15 THE COURT: Yes. Like I said, I don't ultimately --
16 I don't have the authority to mandate that the Bureau of
17 Prisons place anybody in any particular facility, but I will
18 make the recommendation that he be placed in a facility that
19 can address or a facility that houses sexual offenders and
20 that can address treatment options for him.

21 MR. GIBBONS: Very good. Thank you, Your Honor.

22 THE COURT: Anything else?

23 MR. GIBBONS: No.

24 MR. TOWNSHEND: No, Your Honor.

25 THE COURT: All right. Thank you, everyone.

1 THE CLERK: All rise. Court is adjourned.

2 *(Concluded at 10:53 a.m.)*

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 *REPORTER'S CERTIFICATE*
2

3 I, Trisha N. Cameron, Official Court Reporter for
4 the United States District Court for the Western District of
5 Michigan, appointed pursuant to the provisions of Title 28,
6 United States Code, Section 753, do hereby certify that the
7 foregoing is a full, true and correct transcript of the
8 proceedings had in the within entitled and numbered cause on
9 the date hereinbefore set forth; and I do further certify
10 that the foregoing transcript has been prepared by me or
11 under my direction.

12

13

14 /s/ Trisha N. Cameron

15

Trisha N. Cameron
CSR, RMR, CRR, RDR
U.S. District Court Reporter
128 Federal Building
315 West Allegan Street
Lansing, Michigan 48933
(517) 270-4735

16

17

18

19

20

21

22

23

24

25